

The Study of the Taxation of Electronically Delivered Products

To: Committee Members

From: Department of Revenue

Date: November 24, 2008

Re: Draft Conclusion comments by AWB with DOR edits

This memo contains two draft conclusions. The first contains AWB's suggested edits to the original draft final report conclusion. The second contains the draft conclusion currently incorporated into the draft Final Report based on all comments received. The second is provided to help Committee members track what differences there are between the AWB comments and the current draft conclusion.

First Conclusion

This committee agrees that legislation implementing digital goods tax policy is necessary in 2009 to establish certainty in our tax code, to maintain conformity with the SSUTA and to encourage economic development. We hope the Legislature finds this report useful as it considers the complex issues raised by the taxation of digital products.

Taxpayers are concerned of inadvertent consequences resulting from adoption of a general/ broad imposition approach when considering the appropriate tax policy for digital goods. On the contrary, government expressed concerns of diminishing revenues from adoption of a specific/ narrow imposition approach when considering the appropriate tax policy for digital goods. These issues prevented consensus. Although the Committee did not agree on a specific tax policy proposal.

The Committee believes consensus for future legislation adopting a general/broad imposition approach to the taxation of digital products is possible, but only if such legislation:

- ~~Protects the tax base through a general imposition tax on all digital products and digital automated services;~~
- Contains a sufficiently comprehensive and easily administered broad based set of business ~~input~~ exemptions for digital products;
- Provides ~~sales and use tax~~ amnesty to taxpayers who failed to pay and/or collect tax on ~~the purchase of~~ digital products for prior periods;
- Maintains conformity with the SSUTA definitions; and
- ~~Does not harm~~ Protects and promotes the location of server farms and data centers ~~located~~ in Washington.

The Department appreciates the opportunity to work with the Study Committee members and looks forward to continuing to support the members' efforts to find common ground in this area before the upcoming legislative session.

Second Conclusion

This committee agrees that legislation implementing digital ~~goods-products~~ tax policy is necessary in 2009 to:

- Protect the sales and use tax base;
- ~~e~~Establish certainty in our tax code;~~to m~~
- Maintain conformity with the SSUTA; and ~~to e~~
- Encourage economic development.

Committee members expressed differing views on certain fundamental issues surrounding the taxation of digital products. Some Committee members expressed ~~Taxpayers are concerned of~~ inadvertent consequences resulting from adoption of a general/~~broad~~ imposition approach ~~when considering the appropriate tax policy for digital goods. On the contrary, government~~ Other Committee members expressed concerns of diminishing revenues and technology neutrality from adoption of a specific/~~narrow~~ imposition approach ~~when considering the appropriate tax policy for digital goods.~~ These issues prevented consensus on a specific tax policy proposal.

The Committee believes consensus for future legislation adopting a general/~~broad~~ imposition approach to the taxation of digital products is possible, but only if such legislation:

- Contains ~~a comprehensive-sufficient~~ and easily administered broad-~~based~~ ~~set of~~ business exemptions for digital products;
- Provides sales and use tax amnesty to taxpayers who failed to pay and/or collect tax on digital products for prior periods;
- Maintains conformity with the SSUTA definitions; and
- Protects and promotes the location of server farms and data centers in Washington.

The Department appreciates the opportunity to work with the Study Committee members and looks forward to continuing to support the members' efforts to find common ground in this area before the upcoming legislative session.